

"On Board"



Volume 9

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From The Chair...

William E. Russell

The Virginia Board of Health Professions (VBHP) is composed of 17 members—one representative from each of the 12 health regulatory boards and five citizen members representing various regions across the state. The 12 regulatory boards represented on the VBHP are as follows: Audiology and Speech/Language Pathology, Dentistry, Funeral Directors and Embalmers, Medicine, Nursing, Nursing Home Administrators, Optometry, Pharmacy, Professional Counselors, Psychology, Social Work and Veterinary Medicine. I serve as representative for the Board of Social Work.

In discussions with members of social work regulatory boards in other states, we have learned that the Virginia structure allows for a maximum amount of authority, oversight and general administrative responsibility for each health regulatory board. It capitalizes on the strength of having all the boards join in a larger board that has as its mission to serve as an active agent and provide an objective forum for the people of Virginia for the delivery of safe, effective and appropriate health professional services.

Objectives of the VBHP include educational forums and other solutions for common issues and problems facing the health care professions. The Board recently sponsored a forum, which featured an address by Dr. Robert E. Hurley of the Department of Health Administration at MCV/VCU. His presentation entitled "Beyond the Managed Care Conspiracy Theory, Real Challenges to Professional Regulation" served as a focal point for over 70 attendees

representing practitioners, state policy makers, administrators, health care planners, consumers, staff and members of health regulatory boards. He noted that almost 160 million citizens in the U.S. are now enrolled in managed care

plans, that the marketplace is continuing to evolve, and that unknowns and uncertainties will continue. For more information, please call Elaine Yeatts at (804) 662-9918 or e-mail her at eyeatts@dhp.state.va.us. As Chairman of the Board's Education Committee, I plan to promote similar education activities in the future.

Upcoming Board Meeting

The next meeting of the board will be on February 25, 2000 at the Department of Health Professions, 6606 West Broad Street in Richmond.

for licensure renewal of licensed social workers and licensed clinical social workers. Since the passage of the new law, the Board has worked to develop requirements which are reasonable, flexible and attainable for all of its licensees,

Welcome to New Board Members

Sue R. Howington and **Anne R. Keast** have been appointed as new citizen members.

Ms. Howington is from Richlands and Ms. Keast is from Virginia Beach. They have already attended a full board meeting and participated in a formal administrative hearing. Both have also accepted the task of editing future newsletters.

The Board acknowledges the many contributions of former members Ruth Van de Riet and Janice Brock. While on the Board, they provided valuable feedback from the citizens' perspective.

Regulatory Review

by Christina Dzierzek, Chair



The most recent update of the Board's regulations became effective December 23, 1998. The changes include formatting revisions with deletion of obsolete language, and a more simplified application procedure for applicants with lengthy experience licensed in other states.

The Board would like to thank all LSWs and other individuals in Virginia's agencies and institutions who responded to last year's survey regarding the practice of non-clinical social work. The survey results clearly indicated the need for specialized training for the provision of certain kinds of non-clinical social work services. No changes are being proposed for either of the two licensure categories.

The Board is again seeking the input of licensees on a regulatory issue. The 1999 General Assembly mandated that the Board develop continuing education requirements

while ensuring that the training is meaningful to the practice of social work. The Board's draft proposal is outlined below. It is anticipated that the requirements will be finalized in 2001 with the first audits implemented after the 2003 renewal date. If you would like to provide input on the draft proposal, which follows, please direct your comments to Janet Delorme by phone at (804) 662-9575, by fax at (804) 662-9943, or by e-mail at jdelorme@dhp.state.va.us.

A. After (date to be established) licensed social workers and licensed clinical social workers shall be required to have completed a minimum of 30 contact hours of continuing education for each biennial licensure renewal. A minimum of two of those hours must pertain to professional ethics.

1. The Board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

2. The Board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee such as temporary disability, mandatory military service, or officially declared disasters.

B. Hours may be obtained from a combination of board-approved activities in the following three categories:

1. **Category I.** Formally Organized Learning Activities. A minimum of 20 hours shall be documented in this category which shall include one of the following:

- a. Regionally accredited university or college academic courses in a behavioral health discipline. One semester credit hour is equivalent to 15 contact hours.
- b. Continuing education programs offered by universities or colleges accredited by the Council on Social Work Education.
- c. Workshops, seminars, conferences, or courses in the behavioral health field offered by federal, state or local social service agencies, public school systems or licensed health facilities and licensed hospitals.

d. Workshops, seminars conferences or courses in the behavioral health field offered by an individual or organization that has been certified or approved by one of the following:

- (i) The Child Welfare League of America and its state and local affiliates.
- (ii) The National Association of Social Workers and its state and local affiliates.
- (iii) The Association of Black Social Workers and its state and local affiliates.
- (iv) The Family Service Association of America and its state and local affiliates.
- (v) The National Federation of Societies for Clinical Social Work, Inc. and its state and local affiliates.
- (vi) Individuals or organizations who have been approved as continuing education sponsors by the American Association of State Social Work Boards or any state social work board.

2. **Category II.** Individual Professional Activities. A maximum of 10 of the required 30 hours may be earned in this category which shall include one of the following:

- a. Participation in an American Association of State Social Work Boards item writing workshop. (Activity will count for a maximum of 2 hours.)
- b. Publication of a professional social work-related book or initial preparation/presentation of a social work-related course. (Activity will count for a maximum of 10 hours.)
- c. Publication of a professional social work-related article or chapter of a book, or initial preparation/presentation of a social work-related in-service training, seminar or workshop. (Activity will count for a maximum of 5 hours.)
- d. First time provision of continuing education program sponsored or approved by an organization listed under Category I. (Activity will count for a maximum of 2 hours.)
- e. Field instruction of graduate students in a Council on Social Work Education accredited school limited to 2 hours per semester per student. (Activity will count for a maximum of 2 hours.)
- f. Serving on a state social work regulatory board. (Activity will count for a maximum of 2 hours.)
- g. Serving as an officer or committee member of the national professional social work associations listed under subdivision B 1 d of this section. (Activity will count for a maximum of 2 hours.)

h. Attendance at formal staffings at federal, state or local social service agencies, public school systems or licensed health facilities and licensed hospitals. (Activity will count for a maximum of 5 hours.)

i. Independent or group study including listening to audio tapes, viewing video tapes, reading professional books or articles. (Activity will count for a maximum of five hours.)

18 VAC 140-20-106. Documenting compliance with the continuing education requirements.

A. All licensees in active status are required to maintain original documentation for a period of five years following renewal.

B. The Board shall conduct a random audit of licensees to verify compliance.

C. Upon request, a licensee shall provide documentation as follows:

1. To document completion of Category I activities license shall provide:

- a. Official transcripts showing credit hours earned; or
- b. Certificates of participation.

2. Documentation of Category II activities shall be by:

- a. Certificates of participation;
- b. Proof of presentations made;
- c. Reprints of publications;
- d. Letters from educational institutions or agencies approving continuing education program;
- e. Official notification from the association which sponsored the item writing workshop or continuing education program; or
- f. Documentation of attendance at formal staffings shall be by signed affidavit on a form provided by the Board.

D. Continuing education hours required by Disciplinary order shall not be used to satisfy renewal requirements.

Ask the Staff

Q: What are the requirements for providing supervision to a trainee seeking licensure as a clinical social worker?

A: The supervisor providing supervision shall be a **Licensed Clinical Social Worker** in the jurisdiction in which the clinical services are being rendered. The supervisor shall have at least five years of post-Master's Social Work clinical experience.

Q: When is it necessary to register supervision?

A: A trainee who plans to work in a private, for-profit practice setting (**non-exempt**) is required by **LAW** to register with the Board prior to beginning the supervision. A trainee who plans to work in a non-profit practice setting (**exempt**) is **not** required to register supervision with the Board. However, all trainees are required to meet the requirements for licensure as stated in the Board's regulations.

Applications can be obtained from the Board of Social Work, 6606 W. Broad Street, 4th Floor Richmond, VA 23230 or you may call (804) 662-9914. If you have Internet access, you may visit the Agency's website at www.dhp.state.va.us or you may e-mail the Board at bsw@dhp.state.va.us.

Supervision

The Clinical Supervision Curriculum Guide is available through the American Association of State Social Work Boards. The Curriculum Guide was designed to be used by public entities interested in training supervisors of social workers. Included in the package are two textbooks, a videotape, an audio-tape and a CD-ROM. To order material, please contact:

AASSWB

400 South Ridge Parkway, Suite B
Culpeper, VA 22701
(540) 829-6880





DISCIPLINARY ACTIONS

The following summary represents Board disciplinary actions from October 6, 1998 to November 3, 1999.

- ❑ **Elizabeth M. Bostic, L.C.S.W.** #0904-002039
Findings: Impairment which affected her ability to practice social work with reasonable safety, failure to maintain appropriate therapeutic boundaries and engaging in a personal dual relationship with a client and failure to maintain appropriate clinical records for clients.
Action: License placed on indefinite probation, with terms and conditions, by Consent Order entered August 2, 1999.
- ❑ **Kevin M. Cusce, L.C.S.W.** #0904-000973
Findings: Failure to appropriately monitor transference/counter transference, failure to refer a patient to another counselor/therapist when he became aware that his feelings for the client were romantic in nature and attempting to initiate a personal relationship with the client within one day of termination of the counseling/therapy relationship, which inappropriate emotional involvement caused harm to the client.
Action: License placed on indefinite probation, with terms and conditions, by Order entered July 26, 1999.
- ❑ **Sally H. Diuguid, L.C.S.W.** #0904-001882
Findings: Failure to report suspected verbal, physical and sexual abuse of minor children by a parent, although she was made aware of such abuse by the minor children and the other parent of the minor children.
Action: Reprimanded by Order dated October 6, 1998.
- ❑ **Jerry P. Flanzer, Ph.D., L.C.S.W.** #0904-001281
Findings: Failure to monitor transference/counter transference, failure to maintain appropriate therapeutic boundaries and failure to maintain appropriate clinical records for a client.
Action: Reprimanded by Consent Order entered February 2, 1999.
- ❑ **Barbara E. Getchell, L.C.S.W.** #0904-001197
Findings: Failure to maintain appropriate therapeutic boundaries with a client and the client's spouse, engaging in a dual relationship involving both a business and therapeutic relationship with the client, and accompanying the client and the client's spouse during travel out of state.
Action: Reprimanded by Order entered July 27, 1999.

- ❑ **Anita Harrison, L.C.S.W.** #0904-002774
Findings: Impairment which may affect her ability to practice social work with reasonable safety and upon breaching client confidentiality by allowing a third party to access client files and her employer's computer files in order to assist her with her work. License had been summarily suspended by Order dated June 25, 1999.
Action: License placed on indefinite probation, with terms and conditions, by Order entered November 3, 1999.
- ❑ **J. Daniel Petruso, L.C.S.W.** #0904-000087
Findings: Failure to appropriately monitor transference/counter transference and refer a client to another therapist when he became aware of the client's romantic feelings, engaging in a dual, social relationship with the client and failure to maintain appropriate clinical records of the client's treatment.
Action: License placed on indefinite probation, with terms and conditions, by Order entered November 25, 1998.
- ❑ **Barbara L. Reuter, L.C.S.W.** #0904-001961
Findings: Submitted registration of supervision form for a trainee for licensure as a professional counselor and failing to disclose that the trainee was her daughter.
Action: Reprimanded and assessed a monetary penalty of \$500 by Order entered November 25, 1998.

FOR YOUR INFORMATION: Now you can verify a practitioner's license on the web and by calling the information verification system (IVR) telephone number. The web address is www.dhp.state.va.us and the IVR telephone number is (804) 662-7636.

You can also access regulations and application forms on this web site. Licensees who provide substance abuse treatment services may be interested in the new license for substance abuse treatment practitioners under the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals. This license will be available after January 19, 2000. Call (804) 662-9912 to request an application packet.



Name and Address Changes

Have you changed your name or address recently? If so, please notify the Board in writing. Write to: Ms. Rai Minor, Administrative Assistant, Board of Social Work, 6606 West Board Street, 4th Floor, Richmond, VA 23230-1717. Name change requests must be accompanied with supporting documentation such as a marriage certificate or a copy of a divorce decree.

Statutes Applicable To Maintaining Client Records



Virginia Code § 54.1-2403.3 states that

Medical records maintained by any health care provider as defined in § 32.1-127.1:03 shall be the property of such health care provider or, in the case of a health care provider employed by another health care provider, the property of the employer. Such health care provider shall release copies of any such medical records in compliance with § 32.1-127.1:03 or § 8.01-413, if the request is made for purposes of litigation, or as otherwise provided by state or federal law.

The definition of "provider" in Virginia Code § 32.1-127.1:03 includes, in relevant part, "all persons who are licensed, certified, registered or permitted by any of the Health Regulatory Boards within the Department of Health Professions, except persons regulated by the Board of Funeral Directors and Embalmers or the Board of Veterinary Medicine."

Virginia Code § 32.1-127.1:03, captioned "Patient health records privacy," is a lengthy statute which establishes requirements for release of records in connection with requests from patients, requests from third parties and subpoenas. The details of this statute were discussed in a previous edition of **"On Board."** In general, the law requires that, upon the written request of a patient, the provider must, within 15 days, provide a copy of the patient's records, inform the patient that the records do not exist or cannot be found, direct the patient to the provider who is maintaining the patient's records or, if the provider is the patient's attending physician or the patient's clinical psychologist, inform the patient that the request is being refused because furnishing the records "would be injurious to the patient's health or well-being." The statute additionally states that the provider shall not disclose the patient's records without the consent of the patient, except

as permitted by law. The statute then lists 24 permissive exceptions to this disclosure limitation and specifies the method by which records are to be produced in response to a subpoena. Finally, the statute permits release of patient records in compliance with other state and federal laws.

All providers should be familiar with the general provisions of this statute and its permissive exceptions to the general rules. However, because this statute was discussed in detail in a previous edition of this newsletter, this article will focus on other statutory provisions relevant to patient records.

Other statutory provisions pertinent to patient records:

Virginia Code § 54.1-2405 provides that

No person licensed, registered, or certified by one of the health regulatory boards under the Department [of Health Professions] shall transfer records pertaining to a current patient in conjunction with the sale of a professional practice until such person has first attempted to notify the patient of the pending transfer, by mail, at the patient's last known address, and by publishing prior notice in a newspaper of general circulation within the provider's practice area. The notice shall specify that, at the written request of the patient or an authorized representative, within a reasonable time period, the records or copies will be sent to any other like-regulated provider of the patient's choice or destroyed.

The above provision is applicable only to the "sale" of a professional practice, but there is nothing that would prohibit following the procedure outlined in the case of the closing, without a sale, of a practice. Virginia Code § 54.1-111(C) states that it is not unlawful for the owner of patient records to retain copies of his patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice. This latter section also allows the provider to charge a "reasonable fee," not in excess of fifty cents per page for up to fifty pages and twenty-five cents a page thereafter for copies from paper and

one dollar per page for copies from any micrographic process, plus postage and shipping costs and a search and handling fee not to exceed ten dollars.

Virginia Code § 54.1-2403.2 permits the storage of patient records by “computerized, or other electronic process or microfilm, or other photographic, mechanical, or chemical process” and, if such process creates an “unalterable record,” the provider is not required to maintain paper copies of the records stored by such process. When the technological storage is completed, the paper copies of medical records may be destroyed “in a manner that preserves the patient’s confidentiality.”

Upon the request of any of his patients, a provider is required to provide to the patient an itemized statement of the charges for the services provided to the patient, regardless of whether a bill for the services which are the subject of the request has been or will be submitted to any third party payor. *See Va. Code § 54.1-2404.*

The Department of Health Professions has statutory authority to subpoena patient records from any provider in connection with a complaint investigation into actions either by the subpoenaed provider or any other provider. *See Va. Code § 54.1-2506.* One of the permissive exemptions in the patient health records privacy act, Virginia Code § 32.1-127.1:03 discussed above, permits the disclosure of patient records in connection with Virginia Code § 54.1-2506 or any investigation by a “law enforcement, licensure, accreditation or professional review entity.” *See Va. Code § 32.1-127.1:03(D.)(3), (6).* Failure to provide records or other documents requested by a health regulatory board is an “unlawful act,” punishable as a Class 1 misdemeanor. *See Va. Code § 54.1-111(A.)(7).*

No Virginia statute establishes a general requirement for maintaining patient records for a specified length of time. Individual health regulatory boards may have such requirements in their regulations. The Virginia Board of Social Work requires that all social workers regulated by the Board maintain patient records for not less than five years post-termination. *See 18 VAC 140-20-150(10).*

In addition to the brief discussion of the patient health records privacy act, this article has addressed only those Virginia statutes which appear in Title 54.1 of the Code of Virginia which establishes a system for regulation of health care professionals. Federal laws, such as 42 U.S.C. 290dd-2 which governs records of patients treated for substance abuse, supercede Virginia statutes and regulations. Other Virginia statutes may have limited application to specific situations, such as criminal cases. If a provider has questions about producing or maintaining patient records, the provider may wish to discuss such issues with his

attorney. If the questions involve regulations of a health regulatory board or statutes applicable to the regulated profession, the provider may contact the Board of Social Work.

Letter from the Editor...

*By Ruth L. Van De Riet, M.S.W
Former Chair, Newsletter Committee*

In July 1996, I was appointed citizen member of the Board of Social Work. At that time my career goals included obtaining a degree in social work. The experience of serving on the Board of Social Work has enhanced my formal education. On May 16, 1999, I received a Master of Social Work Degree and since have become employed as a social worker. At this time of reflection, I would like to share what my Board experience has meant to me.

Over the past three years, I have gained a greater appreciation for the significant role board members assume while serving in their appointments. The very composition of the Board is structured to have representation from the social work profession and citizens of the Commonwealth. As a working body, the Board is continually challenged to respond to many changes occurring in the social environment and in the practice of social work. Safety, health, and welfare of the citizens of the Commonwealth are matters of great importance when considering regulatory changes and disciplinary actions.

Among my duties, I had the distinct privilege to represent the Board at meetings for the American Association of State Social Work Boards and the National Association of Social Workers. Attending the fall business meetings for the AASSWB and my recent appointment to the Association's Discipline and Regulatory Standards Committee has given me the opportunity to work alongside board members from other states. This experience has enabled me to understand the need to maintain the integrity of the examination process to protect the public from harm and to preserve the licensing standards for social workers.

I have enjoyed serving on the Board. It has been a rewarding experience to work alongside wonderful staff and Board members who are committed to serving the citizens of the Commonwealth. The experience and knowledge that has been passed along through these professionals has been invaluable and will continue to serve me as I move toward my career goals. As I transition from citizen to professional, I look forward to serving the citizens of the Commonwealth as a practicing social worker.

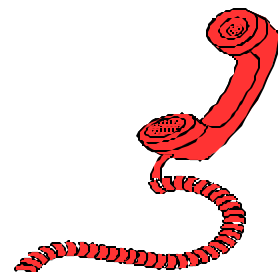
Upcoming Events/Board Calendar



Date	Event/Location
February 25, 2000	Board Meeting DHP
May 12, 2000	Board Meeting DHP
September 15, 2000	Board Meeting DHP

Have a Complaint?

If you have a complaint about a licensee or certificate holder? Please call the **Toll-Free Complaint Line at 1-800-553-1560 or 1-804-662-9956.**



Health Practitioner Intervention Program

In January of 1998, the Health Practitioners' Intervention Program became available to any person who is or was licensed, certified, registered or an applicant under a health regulatory board. Through Virginia Monitoring Inc., the Program provides confidential assessment, evaluation and referral services for impaired practitioners. Information concerning the Health Practitioner's Intervention Program may be obtained from:

William E. McAllister
Virginia Monitoring, Inc.
2101 Executive Drive, Suite 5M – Tower Box 88
Hampton, VA 23666
(757) 827-6600
(888) 827-7559 (answered 24 hours a day)
FAX: (757) 827-8864

Copies of the statutes and regulations governing the Health Practitioners' Intervention Program are available from the Board of Social Work.

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